

S4-02P15746 - Application No. 10/536,925  
Response to Office action February 12, 2007  
Response submitted April 3, 2007

### REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Claims 3 and 4 remain in the application. Claims 3 and 4 have been amended.

Claims 1 and 2 had been previously canceled.

More specifically, claims 3 and 4 have been amended with regard to the expression "manifold." We have instead used the term "air chamber" which is more generic to describe the plenum illustrated in the drawing figures. In other words, the new wording is supported in the drawing figures and in the specification. There, it is described that air is aspirated either into the space defined between the opening 3 and the opening 7 (i.e., the first air chamber 1) or into the space defined between the opening 3/15 and the opening 7/19 (i.e., the second air chamber 13).

The Examiner's comments concerning the Information Disclosure Statement have been noted. The German reference DE 199 51 083 A1 in fact corresponds to U.S. Patent No. US 6,408,810 B1 to Leipelt et al. cited by the Examiner. No additional IDS is believed to be due with regard to the prior art reference.

The specification and the claims meet the requirements of 35 U.S.C. § 112, first and second paragraphs. Should the Examiner find any further objectionable items, counsel would appreciate a telephone call during which the matter may be resolved.

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We now turn to the art rejection, in which claims 3 and 4 have been rejected as being anticipated by Leipelt et al. (US 6,408,810 B1, hereinafter "Leipelt") under 35 U.S.C. § 102. We respectfully traverse.

Leipelt indeed shows a housing (10), a flange (11), and an intake tube (12; 26; 31). Further, Leipelt shows two additional tubes (13, 14; 27, 25; 28, 32) which allow the intake tube length to be increased in two stages. According to Leipelt, the respective shortening or lengthening of the intake tube maximizes intake air resistance to various power stages of the motor vehicle.

Regardless of whether the shortest intake tube is used, the longest intake tube, or the intermediate tube, the air is always aspirated from the same space, namely, from the inside of the housing 10.

The claimed invention defines a first pivot position, wherein the air is aspirated into the housing (i.e., the first chamber). From there, the air is aspirated by a first induction duct out of the first chamber. The claimed invention also defines a second pivot position, wherein the first chamber is bypassed. In the second pivot position, the first opening (i.e., the opening into the first chamber) is closed and instead it is connected through the second air chamber and through a second induction duct with the first induction duct.

Leipert cannot be read on the claimed invention. In fact, Leipert is entirely silent with regard to a "first opening" into the housing. Leipert does not consider bypassing the housing 10 and there is no disclosure that an intake opening into the housing would

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be closed relative to the housing so as to conduct the air to bypass the plenum chamber of the housing.

Neither Leipert nor any other reference, whether taken alone or in any combination, either show or suggest the features of claims 3 and/or 4. These claims are, therefore, patentable over the art of record.

Reconsideration and the allowance of claims 3 and 4 are solicited.

Respectfully submitted,



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